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PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) KAK-0001	
	Application Number 09/653,163-Conf. #5466	Filed September 1, 2000
	First Named Inventor Hiroshi Mikitani	
	Art Unit 3628	Examiner I. N. Borissov

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant /inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [x] attorney or agent of record. Registration number 61,648
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34.

/Toshikatsu Imaizumi/
Signature

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Typed or printed name

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Telephone number

April 9, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

[X] *Total of 1 forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Hiroshi Mikitani et al.

Application No.: 09/653,163 Confirmation No.: 5466

Filed: September 1, 2000 Art Unit: 3628

For: LOTTERY SYSTEM UTILIZING ELECTRONIC MAIL Examiner: I. N. Borissov

REQUEST FOR PRE-APPEAL BRIEF PANEL REVIEW OF FINAL REJECTION

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Final Office Action dated June 8, 2006, Applicant requests pre-appeal brief panel review of the final rejection in the above-identified application, for reasons set forth below.

I. Claims 1-4, 6, 8-13 and 16-22

Claims 1-4, 6, 8-13 and 16-22 have been rejected under 35 U.S.C. §103(a) as unpatentable over Strandberg (US 2002/0161589) in view of Wendkos (US 5,983,196). Applicants respectfully traverse this rejection.

The Office Action asserts that Wendkos teaches that … said system includes means for limiting the customers so as to specify a main group for performing the lottery (The function of the smart win process is to make awards to certain participant in a controlled manner), citing C. 10, L. 56-67; C. 11, L. 15-C. 12 L. 8).

However, Wendkos does not teach "means for limiting the customers stored in the storing means in advance so as to specify particular participants for a lottery." That is, in claim 1, first, customers are limited to a certain number of people, and then a lottery is performed for the only the limited customers. On the other hand, Wendkos does not limit the customer before the lottery is performed. Thus, in Wendkos, the award selection algorithm is executed for participants who are selected from existing customers. **Please note that the algorithm of Wendkos is performed in order to determine who is awarded, but not who are participants of the lottery.**

As to this point, the Final Office Action asserts that "Wendkos teaches a method and system for conducting a lottery via the Internet, wherein participants are notified (are send messages to) of their result in said lottery, and wherein said system includes means for limiting the customers so as to specify a main group for performing the lottery (The function of the smart win process is to make awards to certain participant in a controlled manner) (C.10, L.56-67; C. 11, L.15-C.12 L.8). Further, Wendkos explicitly teaches identifying a specific group of customers eligible for the lottery from the database of all customers, thereby disclosing the "advance "feature (C.10, L.35-53)."

Wendkos discloses at C.10, L. 35-53 as follows:

> A particularly powerful use of this capability is found under the circumstance when a sponsor of a promotional program wishes to identify his "good customers." A good customer might be defined as a customer who has made three purchases of a particular type in the last thirty days. By invoking the name and address capture routine of FIGS. 11A and 11B, only for those participants who have registered certificates for the three purchases in question within thirty days, the sponsor of the program can receive a list of names and addresses which contain only those customers who have made such purchases. In the prior art, a sponsor of a program was limited to either capturing everyone's name and address, or no one's. **This permits the name and address capture to be customized to the needs of the particular sponsor. As a result,**

> **since the cost of direct mailings is very high, the sponsor can customize a mailing to only his best purchasers**, however the sponsor may define that term. As a result, a sponsor will not waste resources in conducting a direct mailing to customers who might not be responsive to his entreaties.

The Examiner errs in determining that Wendkos does not teach identifying a specific group of customers eligible for the lottery from the database of all customers.

That is, Wendkos discloses that "[a] particularly powerful use of this capability is found when a sponsor of a promotional program wishes to identify his good customers" and "only for those participants who have registered certificates for the three purchases in question within thirty days, the sponsor of the program can receive a list of names and address which contain only those customers who have made such purchases." However, although Wendkos teaches that customer information may be used for selection of customer for direct mailings, it is NOT disclosed that the good customer information is used for lottery. Thus, Wendkos does not disclose, teach or suggest "means for limiting the customers stored in the storing means in advance so as to specify particular participants for a lottery" as recited in claim 1.

Applicant respectfully requests detailed explanation on how the Examiner reaches the conclusion that Wendkos explicitly teaches identifying a specific group of customers eligible for the lottery from the database of all customers, thereby disclosing the "advance "feature" from on the description (C.10 L35-53) of Wendkos.

Moreover, although the Examiner asserts that Strandberg teaches "allocating uniquely an electronic mail address to each of participants [0018]; [0019]", it does not teach, disclose or suggest "allocating uniquely an electronic mail address to each of participants".

In the paragraphs [0018] and [0019] of Strandberg, it is disclosed that "a unique ID to link to an interested party database record". However, it does not disclose, teach or suggest "means

for uniquely allocating a reply electronic mail address to each of said specified participants, so that said reply electronic mail addresses are different from each other." It does not describe "ID" as an e-mail address.

Specifically, in the paragraphs [0023] of Strandberg, it is disclosed that "[t]he mail to method includes the call center e-mail address along with the unique ID." "[T]he call center e-mail address" is not uniquely allocated e-mail address to each of participants since in the phrase, since an article "the" precedes the phrase "call center e-mail address" so that the mail includes only the e-mal address common to all of them. Thus, none of the applied art, alone or in combination, does not disclose, teach or suggest "means for uniquely allocating a reply electronic mail address to each of said specified participants, so that said reply electronic mail addresses are different from each other".

Accordingly, withdrawal of this rejection and allowance of the claim is respectfully requested.

Please note that Applicant repeatedly pointed that out in the responses. However, none of the Office Actions articulates reasons why the argument is not persuaded. Detailed explanation thereof is respectfully requested.

Applicants submit that claims 2-4, 6, 8, 9, 12, and 13 depending on claim 1 are also allowable for at least the reasons that claim 1 is allowable as discussed above. Accordingly, withdrawal of this rejection and allowance of the claims is respectfully requested.

Claims 10, 16, 17, 19, 20 and 21 recite similar features to claim 1. Therefore, these claims are allowable.

Also, claims 11 and 18 depending on claim 10 are also allowable for at least the reasons that claim 10 is allowable as discussed above. Accordingly, withdrawal of this rejection and allowance of the claims is respectfully requested.

Moreover, Applicants submit that claim 22 depending on claim 21 is also allowable for at least the reasons that claim 21 is allowable as discussed above.

II. Claims 8 and 9

Claims 8 and 9 are rejected under 35 U.S.C. §103(a) as unpatentable over Strandberg (US 2002/0161589) in view of Wendkos (US 5,983,196) and further in view of Sarno (US 6,024,641). Applicants respectfully traverse this rejection.

Applicants submit that claims 8 and 9 depending on claim 1 are also allowable for at least the reasons that claim 1 is allowable as discussed above.

III. Claims 23-26

Claims 23-26 are rejected under 35 U.S.C. §103(a) as unpatentable over Strandberg (US 2002/0161589) in view of Wendkos (US 5,983,196) and further in view of Libby et al. (US 6,193,605). Applicants respectfully traverse this rejection.

Applicants submit that claims 23-26 depending on claim 21 are allowable for at least the reasons that claim 21 is allowable as discussed above.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: April 9, 2008

Respectfully submitted,

By /Toshikatsu Imaizumi/
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